

**REMARKS**

**I. INTRODUCTION**

This response is provided in view of the remarks set forth in the non-final Office Action dated December 15, 2005. Claims 1-29 and 31-42 are under consideration in the present application. No new matter has been added.

**II. CLAIMS 1-14, 34 AND 38-40 SHOULD NOT HAVE BEEN CANCELED**

In the present Office Action, the Examiner alleges that in the previous Amendment dated July 14, 2005, claims 1-14, 34 and 38-40 have been canceled. Thus, for this reason, the Examiner did not consider Applicants' arguments set forth therein providing the reasons why the Restriction Requirement was improper. However, according to Applicants' files, no claim cancellations should have been applied for the present application.

Upon discussing this matter with Applicants' attorney on March 14, 2006, the Examiner faxed a copy of the first page of Applicants' faxed response dated July 14, 2005 to Applicants' attorney to show that the above-referenced claims were canceled. However, upon the review of the U.S. Patent and Trademark Office (the "Patent Office") files for this application (via the PAIR system), Applicants determined that a subsequent communication dated on the same day was faxed to the Patent Office by Applicants indicating that no such cancellation should take place. Indeed, it appears that the Patent Office received the first page of a prior version of the response at 9:04 P.M. on July 14, 2005 which was inadvertently sent by a paralegal, but later the same day (i.e., at 9:13 P.M.) the Patent Office received a corrected page which clearly excludes any

statement regarding the cancellation of claims. In fact, the cover page of the second submission clearly states "PLEASE SUBSTITUTE PAGE 1 OF THE PREVIOUSLY SUBMITTED AMENDMENT WITH ATTACHED PAGE 1." There was nothing unclear regarding such request/instructions. Accordingly, as provided in Applicants' instructions at 9:13 P.M. on July 14, 2005, the later submission supersedes the earlier submission, and should have been understood by the Examiner to do so.

Attached herewith, please find copies of (i) the original page 1 of the response that had the typographical error, (ii) the instruction fax cover requesting the substitution of page 1 of the response, and (iii) the corrected page 1 of the response provided along with the fax instructions page.

In addition, throughout such response and in the status of the claims provided therein, Applicants made numerous references to claims 1-14, 34 and 38-40 as pending in the application, and absolutely no other indication that these claims have been canceled – on the contrary, Applicants argued why these claims should not be restricted. Accordingly, at the very least, the Examiner should have ascertained a possible inconsistency, and contacted Applicants' attorney to obtain a clarification.

Accordingly, Applicants respectfully submit that claims 1-14, 34 and 38-40 have not been canceled, and are still pending in the present application. Confirmations of such pendency of these claims and the allowability thereof are respectfully requested.

**III. COMMENTS REGARDING RESTRICTION REQUIREMENT SHOULD BE CONSIDERED AND RESTRICTION REQUIREMENT BE WITHDRAWN**

Applicants repeat herein the same arguments as provided in Applicants' Amendment dated July 14, 2005.

In particular, Applicants again respectively note that the present application has a lengthy prosecution, i.e., filing of additional claims 15-37 in an Amendment after First Office Action dated September 23, 2002, three (3) subsequent non-final Office Actions, three (3) respective responses thereto, an indication in the fourth non-final Office Action that many of the claims in the application are allowed or would be allowed if rewritten in independent form (as applicable), and finally Applicants' Amendment that amends all claims to be allowed (to comply with the indication by the Examiner).

Then, for the first time, the Examiner issued a restriction requirement for the claims previously pending in the application as of September 23, 2002. Indeed, all of such claims have been examined multiple times, and subjected to four (4) subsequent Office Actions, and Applicants' responses thereto. At no time during such prosecution were there any indication provided by the Examiner that certain groups of claims of above-identified application are distinct from one another. It is respectfully asserted that if any such issue with the claims should have been raised at least upon the filing of claims 15-37 in the Amendment dated September 23, 2005, and not after most of the claims have been indicated as being allowed or allowable by the Examiner. Applicants believe that such action by the U.S. Patent and Trademark Office has caused undue delays, inappropriate, and is prejudicial to Applicants' rights afforded under the United States laws. At least for these reasons, the Restriction Requirement should be withdrawn.

Further, turning to the specifics of the Restriction Requirement provided in the Office Action dated June 14, 2005, the Examiner alleges that certain groups of

claims of above-identified application are distinct from one another. For such reason, the Examiner believes that the restriction of claims is proper, and requires Applicants to elect one of the following groups:

Group I: claims 1-14, 34, 36 and 38-40 are drawn to image partitioning, allegedly classified in class 382, subclass 240;  
and

Group II: claims 15-29, 31-33, 35, 37, 41 and 42 are drawn to modeling and simulation, allegedly classified in class 703, subclass 2.

Applicants hereby respectfully traverse the restriction requirement set forth in the Restriction Requirement, but provisionally elect Group II, i.e., claims 15-29, 31-33, 35, 37, 41 and 42.

In particular, the Examiner believes that the groups of claims identified above are distinct from one another. Applicants respectfully disagree, and submit that the claimed inventions recited in both Group I (i.e., claims 1-14, 34, 36 and 38-40) and Group II (i.e., claims 15-29, 31-33, 35, 37 and 41-42) recite subject matter that has been extensively examined, and indicated to be allowable over the art of record. Indeed, there would be absolutely no burden on the Examiner to continue examining the claims of both Groups I and II in the same application, since the Examiner already extensively and profusely searched the prior art associated with such groups, and indicated such claims as being allowed and allowable.

Therefore, for at least these reasons, the Examiner is respectfully requested to withdraw the Restriction Requirement contained in the Office Action.

**IV. DOUBLE PATENTING REJECTION SHOULD BE WITHDRAWN**

Claims 15-129,31-33, 35, 37, 41 and 42 stand provisionally rejected under the judicially-created doctrine of double patenting over claims 15-21 and 24-37 of copending application no. 11/035,711. While it is believed that this rejection is inappropriate, Applicants are submitting herewith a terminal disclaimer in order to overcome this rejection, and to expedite the prosecution of the present application. Accordingly, it is respectfully asserted that this rejection under the judicially-created doctrine of double patenting has been obviated, and should be withdrawn.

**V. CONCLUSION**

In light of the foregoing, Applicants respectfully submit that pending claims 1-29 and 31-42 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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